



**Attorney General  
Betty D. Montgomery**

August 16, 1996

*Via Overnight Mail*

Office of the Secretary  
Federal Communications Commission  
1919 M Street, N.W., Room 222  
Washington, D.C. 20554

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Re: *In the Matter of Implementation of the  
Non-Accounting Safeguards of Section 271  
and 272 of the Communications Act of 1934,  
as amended and Regulatory Treatment of  
LEC Provision of Interexchange Services  
Originating in the LEC's Local Exchange  
Area, CC Docket No. 96-149.*

Dear Mr. Caton:

Enclosed please find the original and twelve copies of the **Comments and Motion for Extension of Time of the Public Utilities Commission of Ohio** in the above-referenced matter. Please return a time-stamped copy to me in the enclosed stamped, self-addressed envelope.

Thank you for your assistance in this matter.

Respectfully submitted,

**BETTY D. MONTGOMERY**  
Attorney General of Ohio

**ANN E. HENKENER**  
Assistant Attorney General  
Public Utilities Section  
180 East Broad Street  
Columbus, OH 43215-3793  
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FAX: (614) 644-8764

AEH/kja  
Enclosure

cc: Janice Myles, Common Carrier Bureau  
International Transcription Services, Inc.

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**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554**

RECEIVED  
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In the Matter of:

Implementation of the Non-Accounting  
Safeguards of Sections 271 and 272 of the  
Communications Act of 1934, as amended;  
and Regulatory Treatment of LEC Provision  
of Interexchange Services Originating in the  
LEC's Local Exchange Area

CC Docket No. 96-149

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**MOTION FOR EXTENSION OF TIME  
OF THE  
PUBLIC UTILITIES COMMISSION OF OHIO**

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The Public Utilities Commission of Ohio (PUCO) requests that the Federal Communications Commission (FCC) permit the PUCO to file its Comments in the above referenced proceeding on August 19, 1996, two days after the due date of August 15, 1996. The PUCO is aware of the importance of timely submission of comments and reply comments. The PUCO routinely reviews submissions to the FCC at its regularly scheduled meetings and was unable to complete this review by the original due date. This extension will

not prejudice any party, and will permit the FCC to have a more complete record on which to decide these issues.

Respectfully submitted,

**BETTY D. MONTGOMERY**  
Attorney General of Ohio

A handwritten signature in cursive script, appearing to read "Ann E. Henkener", is written over a horizontal line.

**DUANE W. LUCKEY, Chief**  
**ANN E. HENKENER**  
Assistant Attorneys General  
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(614) 466-4396  
FAX: (614) 644-8764

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of:	)	
	)	
Implementation of the Non-Accounting	)	
Safeguards of Sections 271 and 272 of the	)	CC Docket No. 96-149
Communications Act of 1934, as amended;	)	
and Regulatory Treatment of LEC Provision	)	
of Interexchange Services Originating in the	)	
LEC's Local Exchange Area	)	

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**COMMENTS SUBMITTED BY  
PUBLIC UTILITIES COMMISSION OF OHIO**

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**INTRODUCTION AND BACKGROUND**

The Public Utilities Commission of Ohio (PUCO) hereby submits its comments pursuant to the Federal Communications Commission's (FCC's) Notice of Proposed Rulemaking (NPRM) in CC Docket No. 96-149 (In the Matter of Implementation of the Non-Accounting Safeguards of Sections 271 and 272 of the Communications Act of 1934, as amended; and Regulatory Treatment of LEC Provision of Interexchange Services Originating in the LEC's Local Exchange Area). The FCC's NPRM in this investigation proposes rules pursuant to the directives of Sections 271 and 272 of the Telecommunications Act of 1996 (1996 Act).

Section 271 of the 1996 Act describes conditions under which Bell operating companies (BOCs) may provide interLATA services. Section 272 of the 1996 Act describes the conditions under which a BOC must provide competitive services through a separate subsidiary, and describes the degree of separation required between affiliates. The FCC's NPRM considers rules to implement the non-

accounting separate affiliate and nondiscrimination safeguards prescribed by Congress in Section 272. The FCC's NPRM also addresses whether to relax the dominant carrier classification that currently applies to the BOCs' provision of in-region, interstate, domestic, interLATA services.

In these comments, the PUCO addresses the scope of the Commission's authority, and the need for and the degree of separation required between affiliates.

Comments in this proceeding are due at the FCC on August 15, 1996.

## DISCUSSION

### I. Scope of the Commission's authority

At paragraphs 19-30 the Commission discusses the scope of its authority relative to implementation of Sections 271 and 272 of the 1996 Act. The PUCO submits that the FCC should provide the greatest deference possible to the states on matters essentially intrastate in nature. The 1996 Act does not confer intrastate jurisdiction upon the FCC and does not curtail state authority over intrastate issues. In particular, Section 2(b) of the Communications Act of 1934 was not amended by the 1996 Act. That section provides an express limitation on the FCC's jurisdiction that "nothing in this Act shall be construed to apply to or give the FCC jurisdiction with respect to: (1) charges, classifications, practices, services, facilities, or regulations for or in connection with intrastate communication service by wire or radio of any carrier." 47 U.S.C. Section 152(b). Further Section 601(c) of the 1996 Act specifies that the 1996 Act "shall not be construed to modify, impair or supersede federal, state, or local law unless expressly so provided in such Act or amendments." Because the 1996 Act did not repeal these provisions, a role for the state commissions was clearly envisioned by the legislature. State commissions have had experience dealing with affiliate transactions, and their collective expertise should be utilized in determining how to deal with affiliate relationships in the future.

If the FCC determines that its tentative conclusions as set forth in Paragraph 21 of the NPRM are correct, and that Sections 271 and 272 of the Act were intended to replace the MFJ as to both interstate and intrastate interLATA services, then, the FCC should also determine that nothing in the 1996 Act precludes individual states from requiring additional safeguards. In *California III*<sup>1</sup>, the Court upheld the FCC's elimination of certain structural separations requirements and preempted inconsistent state regulations which required structural separations. In the current rulemaking, both the FCC and the PUCO believe structural safeguards are necessary. Permitting individual states to prescribe additional safeguards would not be inconsistent with the requirements set forth in *California III* because in this instance, the FCC is providing for structural separations. Additional requirements added by individual states would be economically feasible for BOCs to implement, and would not be unduly economically burdensome. Individual states, such as Ohio have had day-to-day experiences with BOCs such as Ameritech Ohio, and are experienced in dealing with problems associated with accounting for affiliated entities which are structurally separated, and problems with joint marketing competitive services with basic non-competitive services.

Experiences the PUCO has had with Ameritech Ohio in the last several years highlight the need for flexibility on the part of individual states to provide proactive solutions to specific problems which arise in regulating telephone companies which provide services through separate subsidiaries, and which joint market certain competitive services with less competitive services.

For example, the FCC, the PUCO, and the Public Service Commission of Wisconsin were recently involved in an audit of Ameritech for the specific purpose of assessing Ameritech's compliance with the Commission's affiliate transaction

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<sup>1</sup> 39 F.3d 919 (1994)

rules. *In the Matter of Ameritech*, AAD-75. While the joint audit report in that case speaks for itself, serious accounting problems were identified which both lead to misallocations to the regulated ratepayers and a lack of documentation which hampered the ability to audit at all. Although Ameritech admitted no wrongdoing, the questions raised by the joint audit and resolved by the consent decree, show clearly that effective regulation requires a role for both the states and the FCC.

Each state maintains its unique regulatory structure and competitive situation which requires emphasis be placed on differing matters. It would be impossible for the FCC to design a set of rules which would encompass all of the regulatory concerns of all of the states for all time. This vital role must, of necessity, be filled by the states. The states could be very hampered in their ability to fulfill their obligations unless they are permitted to impose local, additional conditions upon the separation structure established by the FCC. Such local, additional requirements should not conflict with the FCC's structure but rather serve to enhance the effectiveness of regulation. It is through this system of co-operation that truly effective competition can be achieved in all locales in the country.

In a separate case involving Ameritech Ohio, a complaint was brought by Voice-Tel, a provider of network-based voice messaging services in Ohio. Ameritech Ohio (formerly Ohio Bell) provided a similar services.<sup>2</sup> Voice-Tel alleged that Ameritech had used customer information obtained from Voice-Tel to solicit Voice-Tel's customers to use Ameritech's services instead of Voice-Tel. Voice-Tel further alleged that Ameritech had waived certain non-competitive network service charges in connection with Ameritech's voice mail service offerings while not waiving such charges for Voice-Tel or Voice-Tel's customers. In addition, Voice-Tel alleged that Ameritech reduced its rates for non-competitive

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<sup>2</sup> PUCO Case No. 93-981-TP-CSS, *In the Matter of the Complaint of Columbus Voice Partners dba Voice-Tel v. The Ohio Bell Telephone Company*. See Attachment A

services below tariffed rates. While not admitting fault, Ameritech Ohio entered into a stipulated settlement with Voice-Tel which provided numerous competitive safeguards for providers of competitive services such as Voice-Tel. This is an example of why an individual state such as Ohio needs the ability to provide a forum in which competitors such as Voice-Tel may seek a remedy for allegations of anti-competitive conduct on the part of an incumbent local exchange company. Further, individual state commissions need the latitude to fashion appropriate remedies, depending on situations which are presented. One remedy, depending on the situation, may be to include additional structural safeguards between affiliate entities.

Finally, individual states must be afforded the flexibility to administer individual price cap plans which they have previously approved for incumbent companies. For example, the PUCO has approved a price caps plan for Ameritech Ohio in which basic local exchange prices are frozen for a period of several years, and in which other services are covered by the price caps. Ameritech Ohio's intrastate retail price cap plan is markedly different from the plans adopted in the other four Ameritech states, and each of those plans differ from the others. The concerns set forth by the FCC in Paragraphs 132 and 141-142 in dealing with the various scenarios which could potentially occur in a price caps scenario are good illustrations of what might occur if appropriate safeguards are not placed on BOCs and states are not given the ability to determine whether additional safeguards are necessary based on the particular details of their individual state price cap plans.

## **II. Services provided by a Separate Subsidiary**

### **A. A BOC competing with its own affiliate**

In its NPRM, the FCC discusses services which may be offered through a separate subsidiary. Specifically, in Paragraph 33 the FCC recognizes that a BOC may



wish to place its local exchange operations in a separate affiliate and that those operations must be separate from the BOC affiliate or affiliates engaged in covered competitive activities. Many state commissions, including Ohio's, are faced with the related issue of a BOC requesting certification to sell local exchange services by way of resale through a separate subsidiary in the BOC's own service territory and to be declared a new entrant carrier (NEC) subject to minimal regulation. Ameritech Communications of Ohio, Inc. (ACI) is a subsidiary of Ameritech which is separate from Ameritech Ohio, the BOC offering local exchange service in Ohio. ACI has filed two applications for authority to operate with the Public Utilities Commission of Ohio. One application is for authority to provide basic local exchange service throughout Ohio, including areas currently served by Ameritech Ohio, the BOC.<sup>3</sup> The other application requests authority to provide interexchange service throughout Ohio.<sup>4</sup>

In the PUCO's guidelines<sup>5</sup> issued June 12, 1996, the PUCO determined that an incumbent local exchange company such as a BOC would not be permitted to operate as a new entrant in the incumbent's service territory.<sup>6</sup> In making this original determination, the PUCO shared many of the concerns expressed by the

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<sup>3</sup> PUCO Case No. 96-658-TP-ACE, *In the Matter of the Application of Ameritech Communications of Ohio, Inc. for a Certificate of public convenience and necessity to provide local exchange telecommunications service throughout the State of Ohio.*

<sup>4</sup> PUCO Case No. 96-327-CT-ACE, *In the Matter of the Application of Ameritech Communications of Ohio, Inc. to provide Interexchange Service.*

<sup>5</sup> PUCO Case No. 95-845-TP-COI, Guideline II.A.4, *In the Matter of the Commission Investigation Relative to the Establishment of Local Exchange Competition and Other Competitive Issues.*

<sup>6</sup> The PUCO would not be precluded from determining that an affiliate could provide services on a resale basis in the incumbent's own territory, but under terms different from those imposed upon new entrants which initially have no market power in the local telecommunications industry and no affiliation with an incumbent.

FCC in paragraph 65 of the NPRM concerning non-discrimination. A BOC could have an incentive to favor its own competitive affiliate over non-affiliated competitors. For example, it could give non-affiliate competitors inferior service, and could share information about new service offerings with its own affiliate prior to sharing it with non-affiliates. Moreover, the PUCO had concerns that an incumbent LEC could simply escape the regulation which is appropriate to it as an incumbent with overwhelming market share by attempting to "transform itself" into a new entrant merely through creating alleged "new entrant" affiliates. The PUCO was also concerned about the subtle forms of cross-subsidy and predatory pricing wherein the reseller operates at a loss and sells at retail at below cost prices to wipe out competitors while the wholesaler remains the source of profits for the corporation as a whole. The PUCO has had considerable concerns about this type of cross subsidy which has been alleged to occur in the cellular market between wholesalers and their affiliated resellers.

Ameritech Ohio has requested that the PUCO reconsider this guideline. The PUCO is studying the arguments raise by Ameritech and the memoranda contra filed by Time Warner, MCI and AT&T on this subject before issuing its ruling which is expected in September of 1996.

In Paragraph 70, the FCC tentatively concludes that any transfer by a BOC of existing network capabilities of its local exchange entity to its affiliate is prohibited by section 272(a). The PUCO agrees that a BOC should not be permitted to transfer assets from the BOC to an affiliate, and if it does so, the affiliate should be deemed to be a successor or assign under Section 153(4)(B) and subject to all applicable nondiscrimination requirements. Furthermore, in response to the inquiry in Paragraph 71, the PUCO believes that these non-discrimination requirements

include accounting as well as non-accounting safeguards consistent with our comments below.

**B. Specific structural safeguards**

If the FCC should determine that a separate subsidiary of a BOC may offer basic local exchange services in competition with the BOC, and that a separate subsidiary (perhaps the same one which is offering the local service) may also offer competitive services such as interexchange service, the PUCO believes that enforceable and meaningful structural safeguards must be placed on the subsidiaries. The PUCO concurs in the FCC's tentative conclusions concerning separations, and urges the FCC to maximize the structural separation required between the BOC and any subsidiary offering local exchange service either in the BOC's service territory or outside the BOC's service territory. Moreover, nothing in the FCC's Order should preclude the states from exercising an appropriate level of regulation on the reseller which takes into account its affiliate relationship and the potential for cross-subsidization, predatory pricing and discriminatory treatment by the incumbent LEC of its affiliates relative to others dependent on the incumbent LEC's underlying network.

In Paragraphs 33 and 56, the FCC tentatively concludes that a BOC may conduct all of the manufacturing activities, interLATA telecommunications services, and interLATA information services on a single separate affiliate. The PUCO disagrees with this tentative conclusion. Different regulatory requirements will need to be imposed on those differing services depending on whether or not they are regulated. Therefore, they should be required to be offered separately, unless the BOC was willing to have its unregulated services subject to the same scrutiny as its regulated services.

In Paragraph 63, the FCC tentatively concluded that a BOC may not co-sign a contract, or any other instrument with a separate affiliate that would allow the affiliate to obtain credit in a manner that violates Section 272(b)(4). The PUCO agrees with this tentative conclusion. This mirrors restrictions the PUCO has already placed on affiliate transactions in PUCO Case No. 95-845-TP-COI, *In the Matter of the Commission Investigation Relative to the Establishment of Local Exchange Competition and Other Competitive Issues*. See Attachment B.

In Paragraph 67, the FCC seeks comments on whether the terms of Section 272(c)(1) and (e) could be construed to require a BOC to provide a requesting entity with a quality of service identical to that provided its affiliate even if that would require the BOC to provide goods, facilities, services, or information to the requesting entity that are different from those provided to the BOC affiliate. The PUCO submits that, while it is arguable that some distinctions may be imposed in the definitions, we believe that the underlying quality of service provided by the LEC to its affiliate must be of the same quality provided to a non-affiliate.

In response to Paragraph 75, the PUCO submits that structural safeguards must be in place between the BOCS and their affiliates in order to ensure that the BOCs cannot discriminate in providing access to its services. Furthermore, the PUCO supports the application of the *Computer II*<sup>7</sup> provisions, because *Computer II* requires more structural separations than *Computer III*<sup>8</sup> and the ONA proceedings, the FCC should adopt requirements in this proceeding more similar to those in *Computer II*. The safeguards required in *Computer III* were primarily accounting safeguards. As indicated above, the PUCO has concerns about the effectiveness of accounting safeguards. See discussion of *In the Matter of Ameritech*, AAD-75.

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<sup>7</sup> 77 FCC 2d 384 (1980), et seq.

<sup>8</sup> CC Docket No. 85-229

Further, the types of issues being addressed by this NPRM are more operational in nature, e.g. joint marketing of services and quality of service offered competitors. By their very nature, accounting safeguards cannot effectively address these types of operational issues.

In response to Paragraph 88, the PUCO submits that a BOC and an affiliate that is subject to the requirements of Section 251(c) should charge an affiliate or impute to itself an amount for access to its telephone exchange services and exchange access that is no less than the amount charged to any unaffiliated interexchange carrier for such services. These are requirements that Ameritech Ohio agreed to by means of its alternative regulation plan, and which were approved by the PUCO, and these requirements should be retained.

In paragraph 92, the FCC seeks comment on the corporate and financial arrangements required under the Act. The PUCO submits that BOCs could initially be permitted to have BOC personnel market its affiliate's services so long as it is done in an "arm's length" manner to the same extent it is willing to do marketing for non-affiliates. Should competitors file complaints about this process, and the state commission's believe these complaints are valid, this provision should be re-examined to determine if an outside marketing entity is more appropriate.

The PUCO agrees with the FCC's tentative conclusions in Paragraphs 126 and 127 that it should evaluate a BOCs point-to-point markets in which calls originate in-region separately from the BOC's point-to-point markets in which calls originate out-of-region for the purpose of determining whether a BOC interLATA affiliate possesses market power in the provision of in-region interstate domestic interLATA services. Likewise, the PUCO agrees that the FCC should evaluate an independent LECs point-to-point markets in which calls originate in its local exchange areas separately from its markets in which calls originate outside those areas for the

purpose of determining whether an independent LEC possesses market power in the provision on in-region, interstate, domestic, interexchange services.

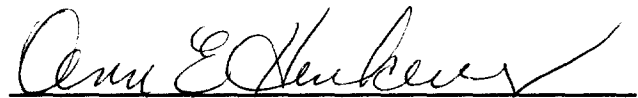
In response to the FCC's request for comments posed in Paragraph 157, the PUCO believes that similar concerns exist for independent companies with market power as exist for the BOCs. Therefore the PUCO believes that both independent and BOC affiliates should continue to be classified as dominant if they provide in-region, interstate, domestic, interexchange services. The PUCO itself has imposed similar structural separation rules on independents as the RBOCs and sees no reason to depart from that policy (other than for rural LECs where the costs of compliance are high relative to the revenues of the firm as a whole). PUCO Case No. 89-563-TP-COI, *In the Matter of the Commission Investigation Into Implementation of Section 4921.01 Through 4927.05, Revised Code, as They Relate to Competitive Telecommunication Services*. See Attachment C. In fact, some of the PUCO's major precedents in this area stem from independent telephone company cases. PUCO Case No. 86-2173-TP-ACE, *In the Matter of the Application of United Telephone Long Distance, Inc. for Authority to Furnish Interexchange Telecommunications Services within the State of Ohio*. See Attachment D.

## CONCLUSION

In closing, the PUCO wishes to thank the FCC for the opportunity to file comments in this docket.

Respectfully submitted,

**BETTY D. MONTGOMERY**  
Attorney General of Ohio

A handwritten signature in dark ink, appearing to read "Duane W. Luckey", is written over a horizontal line.

**DUANE W. LUCKEY**  
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Assistant Attorneys General  
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FAX: (614) 644-8764

Dated: August 16, 1996.

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Complaint of )  
Columbus Voice Partners dba Voice- )  
Tel, )  
 )  
Complainant, )  
 )  
v. ) Case No. 93-981-TP-CSS  
 )  
The Ohio Bell Telephone Company, )  
 )  
Respondent. )

ENTRY

The Commission finds:

- 1) On June 14, 1993, Columbus Voice Partners dba Voice-Tel (Voice-Tel or complainant) filed a complaint with the Commission against The Ohio Bell Telephone Company (Ohio Bell). Voice-Tel alleged that it is engaged in the business of providing network-based voice messaging service in central Ohio, a service which is also provided by Ohio Bell. The complaint charges that Ohio Bell has rendered inadequate service and has engaged in unlawful anti-competitive business practices that have injured Voice-Tel as a competitor.
- 2) On July 6, 1993, Ohio Bell filed a motion to dismiss. In an Entry issued August 24, 1994, the Attorney Examiner denied Ohio Bell's motion to dismiss and directed the company to file an answer to the complaint. Ohio Bell timely filed its answer on September 13, 1993. In its answer, Ohio Bell denied all material allegations of the complaint. On September 23, 1993, Ohio Bell filed a pleading which it termed an application for rehearing. Ohio Bell sought to contest the denial of its motion to dismiss. After the filing of a memorandum contra by Voice-Tel, the Attorney Examiner issued an entry on October 22, 1993 finding reasonable grounds for complaint and



denying Ohio Bell's request that its motion to dismiss be reconsidered.

- 3) A prehearing conference was held on November 4, 1993, as scheduled by the Attorney Examiner's Entry of October 22, 1993. The parties did not reach an agreement at that time.
- 4) On March 25, 1994, the parties filed a motion to dismiss along with an attached Stipulation and Settlement Agreement (Stipulation). On March 28, 1994, Ohio Bell filed a letter clarifying that Ohio Bell would consider as proprietary, information relating to service orders that is provided to Ohio Bell by all providers like Voice-Tel and their customers. The parties state that the Stipulation represents a full and final settlement of all claims arising from the complaint and request that the terms and conditions of the Stipulation be incorporated into the Commission's dismissal order by reference, restatement, or attachment.
- 5) Certain provisions of Stipulation apply to information industry providers as a whole. For example, to handle service requests, Ohio Bell has established a separate service center for companies like Voice-Tel. At a future date, Ohio Bell will implement a rapid order system which will be available to all information industry providers. The rapid order system will obviate the need for the current service representative process. Ohio Bell further agrees that information provided to it by information industry providers will be deemed proprietary and will be treated in accordance with Ohio Bell's policies on the handling and disclosure of such information. To keep information industry providers apprised of beneficial technical developments, Ohio Bell has agreed to make available quarterly updates, which will contain information on switch types, generics, features, NXX numbers, and access lines. Finally, Ohio Bell has agreed to file addenda to its tariff relative to promotional waivers of non-recurring charges for alternate answer, message waiting tone, busy line transfer, and call forwarding.

- 6) Having reviewed the Stipulation, the Commission notes with pleasure that many of the measures agreed to be instituted by Ohio Bell will be applicable not only to Voice-Tel, but to all information industry providers like Voice-Tel. The parties are to be commended for having reached an accord that not only satisfies their immediate interests and concerns, but also extends benefits to the information industry as a whole. The proposed Stipulation takes a major step toward leveling the information industry playing field, which ultimately will benefit customers. Pursuant to the provisions of Rule 4901-1-30, Ohio Administrative Code, the Commission shall adopt the Stipulation, as clarified by the letter of March 28, 1994. The Stipulation, a copy of which is attached to this Entry, shall be a part hereof as if fully rewritten.

It is, therefore,

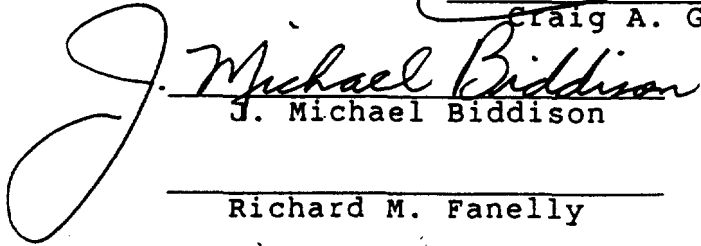
ORDERED, That, in accordance with Finding (4), the Stipulation and Settlement Agreement submitted on March 25, 1994, is adopted in its entirety. It is, further,

ORDERED, That the Joint Motion to Dismiss is granted and, accordingly, this case is dismissed and closed of record. It is, further,

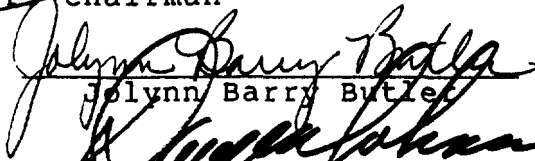
ORDERED, That copies of this Entry be served upon Columbus Voice Partners dba Voice-Tel, The Ohio Bell Telephone Company, their respective counsel, and all interested persons of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO

  
Craig A. Glazer, Chairman

  
J. Michael Biddison

Richard M. Fanelly

  
Jolynn Barry Butler


  
David W. Johnson

LDJ/vrp

Entered in the Journal

APR 20 1994

A True Copy

  
Gary E. Vigorito  
Secretary



BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE COMPLAINT	)	
OF COLUMBUS VOICE PARTNERS	)	
DBA VOICE-TEL,	)	
	)	
Complainant,	)	CASE NO. 93-981-TP-CSS
	)	
vs.	)	
	)	
OHIO BELL TELEPHONE COMPANY,	)	
	)	
Respondent.	)	

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STIPULATION AND SETTLEMENT AGREEMENT

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Complainant Columbus Voice Partners dba Voice-Tel ("Voice-Tel") and Respondent The Ohio Bell Telephone Company ("Ohio Bell") respectively stipulate and settle the claims asserted in the above styled action upon the following terms:

1. This Stipulation and Settlement Agreement ("Agreement") is submitted to the Public Utilities Commission of Ohio ("the Commission") for use by the Commission in dismissing this case through an order of dismissal. In the event the Commission should reject all or any part of this Agreement it shall be void and the parties may proceed to hearing of the complaint case. If accepted by the Commission the parties request that the terms of this Agreement be incorporated within the Commission's

order by reference, restatement and/or attachment and shall be fully enforceable as an order of the Commission under Chapter 4905, Ohio Revised Code.

2. Ohio Bell agrees to file addendums to its tariffs for future promotional waivers of non-recurring charges for alternate answer (Section 8 (4.3)(A)), message waiting tone (Section 7 (2.3)(A)), busy line transfer (Section 7 (4.3)(A)) and call forwarding (Section 8(3)(F)). The addendum will be filed for informational purposes only coincident with the effective date of the promotion pursuant to the tariff. Ohio Bell agrees to provide Voice-Tel with a copy of the addendum in advance of the effective date. Ohio Bell further agrees to apply its tariffs without unlawful discrimination to information industry customers like Voice-Tel or Voice-Tel's customers.
3. Ohio Bell agrees not to solicit Voice-Tel customers consistent with its service policies. Ohio Bell agrees to take corrective action, consistent with its policies, with personnel if service policies are not followed.

4. Ohio Bell agrees to provide Voice-Tel with access to a specified service representative for orders, entries and expedites. Currently, a separate service center has been established for the purpose of handling information industry customer requests. Ohio Bell shall also make available a specific contact of local translations personnel. Ohio Bell will follow its policies concerning the handling and disclosure of customer proprietary information and shall consider information provided by Voice-Tel and its customers in connection with service orders as proprietary. Voice-Tel shall have the option of executing a blanket letter of agency for placing orders.
5. Ohio Bell agrees to provide Voice-Tel with the option of using a rapid order system, which when available, can be used by information industry customers for placing orders. The terms and conditions for the use of this system will be developed by Ohio Bell. Ohio Bell agrees to provide Voice-Tel with a time frame, cost and delivery date as soon as available. This new system will permit information industry customers, such as Voice-Tel, to place orders without using the current service representative process.

6. Ohio Bell further agrees to convert Voice-Tel's Direct Inward Dialing Trunks from a measured rate to message rate, pursuant to Voice-Tel's November 2, 1993 request. Charges will be adjusted consistent with Ohio Bell's tariffs, as amended.
7. Ohio Bell further agrees to provide Voice-Tel a quarterly update concerning switch enhancements and updates. This report will be made available to information industry customers and will contain information concerning switch type, generics, features, NXX numbers and access lines.
8. Voice-Tel, its successors and assigns agree that this Agreement represents full and final settlement of all claims asserted expressly or impliedly in the complaint case pending before the Commission entitled Columbus Voice Partners dba Voice-Tel vs. The Ohio Bell Telephone Company, Case No. 93-981-TP-CSS, including the November 2, 1993 letter from complainant's counsel to Ohio Bell. Nothing in this Agreement shall preclude Voice-Tel from raising claims accrued after the date of this Agreement, including claims of cross-subsidization. The parties agree that this Agreement

and any settlement discussions are not an admission of any kind by any party. Ohio Bell denies that it has ever violated any legal duty owed to Voice-Tel or its customers. This Agreement and any order issued in this proceeding shall not be used by the parties for any purpose in this or any other proceeding. All offers of settlement and discussion related thereto are privileged and shall not be used in any manner, nor be admissible for any other purpose in connection with this proceeding.

9. Ohio Bell agrees to continue to maintain the Columbus UCD lines in accordance with applicable Commission rules and statutes.
10. Ohio Bell agrees to provide information to Voice-Tel concerning the availability and function of certain service features to be specifically identified by Voice-Tel within 30 days of the date of this Agreement.



11. Sean Dowd states that he is fully authorized and empowered to execute this release on behalf of Columbus Voice Partners dba Voice-Tel.

THE OHIO BELL TELEPHONE COMPANY



Orla E. Collier  
Benesch, Friedlander, Coplan  
& Aronoff  
88 East Broad Street  
Columbus, Ohio 43215

Date 3/25/94

By



Michael T. Mulcahy  
45 Erieview Plaza, Suite 1400  
Cleveland, Ohio 44114  
(216) 822-3437

Date

3-27-94

COLUMBUS VOICE PARTNERS dba  
VOICE-TEL

By

  
Sean Dowd

  
Title Partners dba Voice-Tel

Date

3-25-94